

## INTRADEPARTMENTAL CORRESPONDENCE

October 21, 2020  
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**TO:** The Honorable Board of Police Commissioners

**FROM:** Chief of Police

**SUBJECT:** OFFICER INVOLVED SHOOTING, FID NO. 001-20

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Honorable Members:

The following is my review, analysis, and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 001-20. A Use of Force Review Board (UOFRB) was convened on this matter on September 28, 2020. I have adopted the recommendations from the UOFRB for this incident. I hereby submit my findings in accordance with Police Commission policy.

### SUMMARY<sup>1</sup>

On January 4, 2020, at 2237 hours, security cameras at the Neighborhood Market, located at 4300 Griffin Avenue and at American Motors Trends, located at 4236 Griffin Avenue, recorded the suspect, Julio Rodriguez, loitering near the intersection of Avenue 43 and Griffin Avenue. Julio Rodriguez was accompanied by an unidentified Hispanic male and female. During that time, all three stood near the front of the market and the northeast corner of Avenue 43 and Griffin Avenue. Their attention appeared to be focused on the vehicle and pedestrian movement in the area, as they paced about the area and repeatedly looked up and down the streets.

According to the FID investigation, while they were at the location several people approached them, made brief contact with them and then left the area. During the contacts, the unidentified Hispanic male walked east of the market on Avenue 43, out of view of the security cameras. Occasionally, Julio Rodriguez made hand gestures directed at the occupants of vehicles driving past his location. At approximately 2339 hours, a white four door hatchback vehicle arrived in front of the market, the unidentified Hispanic male and female entered the vehicle and left the area. Julio Rodriguez remained in front of the market near the northeast corner of the intersection for approximately five minutes. At 2344 hours, Julio Rodriguez entered a gated area in front of 4302 Griffin Avenue and took a seat on the concrete steps in front of the location. Between 2344 hours and 0006 hours, the light from Julio Rodriguez' cellular telephone screen was intermittently visible as Julio Rodriguez utilized the phone while he sat on the steps.

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<sup>1</sup> The summary and the investigation completed by FID for this incident have been provided to the Board of Police Commissioners.

According to the FID investigation, on January 4, 2020, Officers G. Rivas, Serial No. 41657 and A. Rodriguez, Serial No. 43818, Northeast Patrol Division, were in full police uniform driving a marked black and white police vehicle, and assigned Unit 11A37, Watch Three. Officers Rivas and Rodriguez had worked as partners on two occasions during the past three months.

According to the FID investigation, on January 5, 2020, at approximately 0001 hours, Officer Rivas, while on patrol and seated in his black and white police vehicle, utilized his personal cellular telephone to view an approximate nine second recorded video posted on a social media website.<sup>2</sup> The video recording depicted an individual from the chest down, seated on concrete steps behind a white wrought iron fence adjacent to the street.<sup>3</sup> As the video progressed the individual raised their shirt, showing their waistband and exposed the grip and a portion of the slide of a semi-automatic handgun protruding from the individuals' right front pants pocket. The individual then made a hand gesture with their fingers, in the shape of a lower case "a."<sup>4</sup> Simultaneously, animated text displayed the words "Savage" and "we're the parks at?"<sup>5</sup> As the video recording continued, it panned out past the wrought iron fence toward the intersection of Avenue 43 and Griffin Avenue where the front of the 7 Days Market located at 4307 Griffin Avenue was visible in the background.<sup>6</sup>

According to Officer Rivas, he maintained a fictitious social media profile to monitor gang activity and for crime prevention in the communities located within the Northeast Patrol Division area.

According to the FID investigation, upon viewing the video, Officer Rivas immediately recognized the location from where the video was recorded as an apartment complex near the intersection of Avenue 43 and Griffin Avenue.

**Note:** The FID investigation determined that the intersection of Avenue 43 and Griffin Avenue was in Hollenbeck Area, approximately two blocks east of the eastern boundary of Northeast Area.

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<sup>2</sup> The social media website was a free, online photo-sharing application (app) and social network platform. The social media website allows users to edit and upload photos and short videos through a mobile app. Users can add a caption to each of their posts and use hashtags and locations-based geotags to index these posts and make them searchable by other users within the app. Each post by a user appears on their followers' feeds and can also be viewed by the public when tagged using hashtags or geotags. Users also have the option of making their profile private so that only their followers can view their profiles.

<sup>3</sup> The gender of the individual was not discernable.

<sup>4</sup> According to the FID investigation, the hand gesture "a" is consistent with an "Avenues Gang" hand sign.

<sup>5</sup> The reference to "the parks" in the Julio Rodriguez social media video refers to the rivalry between the Avenues and Cyprus Park street gangs. These gangs reside in Northeast and Hollenbeck Areas.

<sup>6</sup> According to the FID investigation, 4307 Griffin Avenue is within the geographic boundaries of Hollenbeck Area which is adjacent to Northeast Area.

Officer Rivas believed that the post was gang related due to the user profile name “sanchez\_lboy43,” having the numbers “43” in it and the location depicted in the video.<sup>7</sup> The video was posted on the “Stories” feature of the social media application. Video recordings posted on the “Stories” feature are displayed for a 24-hour time frame. The time stamp displayed on the post indicated that the video recording had been posted approximately twelve minutes prior to Officer Rivas viewing it (**Additional Tactical Debrief Topic – Conducting an Investigation Outside of Assigned Area Without Supervisory Approval**).

According to Officer Rivas, he told Officer Rodriguez about the social media post and they discussed the clothing that the individual was wearing in the video and that the individual was possibly armed (**Debriefing Point No. 1 – Tactical Planning/Communication**).

According to Officer Rodriguez, while he and Officer Rivas were *cruising eastbound on Griffin Avenue* he observed Officer Rivas *thumb scrolling* an unknown application on his cellular telephone.<sup>8</sup> As they were approaching Avenue 43 they had a conversation that the area is *a high gang area* and Officer Rivas shared with Officer Rodriguez his knowledge of recent gang activity that occurred near the intersection.<sup>9</sup> Officers Rivas then advised Officer Rodriguez, “Hey there might be someone in front of the liquor store. Just keep your eyes, like a heads up pretty much.”<sup>10</sup> Officer Rivas advised Officer Rodriguez that the individual, “May or may not be armed” with a gun.<sup>11</sup>

According to the FID investigation, Officer Rivas’ intention was to drive to the area of Avenue 43 and Griffin Avenue to determine if he could identify the individual depicted in the social media video. Officer Rivas stated he did not request additional units to respond to look for the possible suspect because, “I didn’t consider that, just for the fact that the post was kind of late to me and that the possibility of him, you know, posting something like that and still being there was very slim” (**Additional Tactical Debrief Topic – Additional Unit Request**).

According to the FID investigation, Officer Rivas advised he was familiar with the area of Avenue 43 and Griffin Avenue because of its gang and narcotics activity. As Officers Rivas and Rodriguez drove down Griffin Avenue toward the intersection of Avenue 43 they discussed a gun arrest involving an Avenues gang member that Officer Rivas had made the week prior to this incident and a homicide that occurred at the intersection in August 2019.

According to the FID investigation, at 0008 hours, the Neighborhood Market security camera captured a dark colored four door vehicle stop in front of the market in the northbound traffic lane of Griffin Avenue. As Officers Rodriguez and Rivas drove south on Griffin Avenue towards Avenue 43, they observed Julio Rodriguez standing on the east side walk, one structure north of the Neighborhood Market and in front of 4302 Griffin Avenue. Officers Rivas and

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<sup>7</sup> According to Officer Rivas, based on his knowledge and experience with the Avenues gang, it inferred that the individual was affiliated with the Avenue 43 clique of the Avenues gang.

<sup>8</sup> Officer Rodriguez, Second interview, Page 4, Lines 9-12.

<sup>9</sup> Officer Rodriguez, First Interview, Page 13, Lines 23-25.

<sup>10</sup> Officer Rodriguez, Second Interview, Page 5, Lines 4-10.

<sup>11</sup> Officer Rodriguez, Second Interview, Page 6, Lines 23-24.

Rodriguez observed that Julio Rodriguez was standing on the sidewalk and appeared to be talking to the occupant of the dark colored vehicle that was stopped on Griffin Avenue, facing north in the traffic lane. Officer Rivas stopped their police vehicle facing south in the center median of Griffin Avenue. At 0009 hours, Officer Rivas exited the police vehicle and approached Julio Rodriguez. Officer Rodriguez exited their police vehicle and followed behind Officer Rivas as he proceeded to approach Julio Rodriguez. The dark colored vehicle backed up south toward the curb, as Officer Rivas approached Julio Rodriguez. Officer Rodriguez maintained a position on the east sidewalk between Officer Rivas and the vehicle and monitored the dark colored vehicle and Julio Rodriguez (**Debriefing Point Nos. 2, 3, and 4 – Code Six, Pedestrian Stop Tactics/Tactical Vehicle Deployment, and Approaching a Possibly Armed Suspect**).

According to Officer Rivas, the windows of his police vehicle were down as he drove up to the location and he smelled what he believed to be the *odor of marijuana coming from the area*. Officer Rivas then observed Julio Rodriguez smoking *some type of cigarette or rolled joint*. Officer Rivas also formed the opinion that Julio Rodriguez was *very young and possibly a juvenile* and given the time of night was in violation of curfew.

**Note:** Upon exiting their police vehicle Officers Rivas and Rodriguez did not broadcast their Code Six location.<sup>12</sup> According to Officer Rivas, when he and his partner discussed tactics at the start of their watch, they pre-planned that when one of them initiates contact with a suspect, it was the other officer's responsibility to make a Code Six broadcast. According to Officer Rodriguez, he thought Officer Rivas placed them Code Six.

According to the FID investigation, at 0009:12 hours, Julio Rodriguez stated, "Do you mind if I smoke a cigarette?" Officer Rivas replied, "It smells like something else!" Officer Rivas then asked Julio Rodriguez if he was on probation or parole. Julio Rodriguez took a step toward Officer Rivas and extended his right hand toward him. Officer Rivas observed that Julio Rodriguez had a bulge in his right front pants pocket. Officer Rivas asked Julio Rodriguez what he had in his pocket, as Julio Rodriguez raised his hands up to his chest area and stated, "Why, what do I have?"<sup>13</sup> Officer Rivas responded, "Do you mind if I pat you down?" Julio Rodriguez replied, "I have like sheets" as he simultaneously placed his right hand down on his right front pants pocket. Officer Rodriguez commanded, "Don't reach for it." Officer Rivas was unable to determine if the bulge was a handgun; however, based on Julio Rodriguez' reaction to his question regarding the object in his pocket, Officer Rivas formed the opinion that the object was a handgun. Officer Rivas attempted to grab ahold of Julio Rodriguez' arms, as he commanded Julio Rodriguez to put his hands behind his back. Julio Rodriguez suddenly turned away from Officer Rivas before Officer Rivas was able to grab hold of him and fled on foot north on Griffin Avenue.

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<sup>12</sup> Los Angeles Police Department (LAPD) Manual, Volume 4, Series 120.40 indicates when a unit is conducting a field investigation and no assistance is anticipated, a "Code Six" followed by the location shall be broadcast.

<sup>13</sup> According to Officer Rivas, it was at that time that he began to realize that Julio Rodriguez was possibly the same person that posted the social media video.

According to the FID investigation, Officer Rivas once again commanded Julio Rodriguez to place his hands his back as he drew his service pistol with his right hand as he pursued Julio Rodriguez on foot north on Griffin Avenue. As the foot pursuit began, Officer Rodriguez drew his service pistol with his right hand and ran after Officer Rivas and Julio Rodriguez north on Griffin Avenue (**Additional Tac Debrief Topic – Running with Service Pistol Drawn**).

According to Officer Rivas, after he made verbal contact with Julio Rodriguez, he observed *the bulge in his [Julio Rodriguez] pocket*. Officer Rivas attempted to inquire what the bulge was at which time Julio Rodriguez *immediately reached down, clenched it, and took off running*. Based on Officer Rivas' observation of Julio Rodriguez actions in response to his inquiry, Officer Rivas believed that the bulge *was a gun*. Officer Rivas drew his service pistol based on his belief Julio Rodriguez was armed with a handgun and the tactical situation could lead to the use of deadly force (**Drawing/Exhibiting**).

According to Officer Rodriguez, he was positioned just south of Officer Rivas on the east sidewalk of Griffin Avenue as Officer Rivas continued his verbal communication with Julio Rodriguez. Officer Rodriguez observed Julio Rodriguez suddenly *pick the front waistband of his pants up* and Officer Rodriguez believed Julio Rodriguez *possibly could have been reaching for a gun* since in his experience, *guns are mainly put in the front of the waistband*. Additionally, Officer Rodriguez observed Officer Rivas draw his service pistol, which led Officer Rodriguez to believe that Officer Rivas, who had a *better angle*, had also observed a weapon. Based on his observations, and his belief Julio Rodriguez *may be reaching for a weapon or an item to inflict harm* on him or his partner, Officer Rodriguez drew his service pistol (**Drawing/Exhibiting – First Occurrence**).

According to the FID investigation, Julio Rodriguez proceeded to run north/west across Griffin Avenue, onto the west sidewalk and continued north on Griffin Avenue. Officer Rivas continued to run after Julio Rodriguez in the street utilizing the parked vehicles along the west curb for cover and maintained distance between Julio Rodriguez and himself.

**Note:** According to Officer Rodriguez, Officer Rivas and Julio Rodriguez ran between the parked vehicles on Griffin Avenue during the foot pursuit. Force Investigation Division investigators determined Officers Rivas and Rodriguez ran in the street as Julio Rodriguez ran on the west sidewalk and neither ran between the parked vehicles.

According to the FID investigation, at 0009:56 hours, as Officer Rivas followed after Julio Rodriguez, he removed his hand-held police radio from its holder with his left hand while holding his service pistol in his right hand and attempted to broadcast a foot pursuit and backup request: "...11A37, 415 man with a gun, we are going to be northbound on Griffin, approaching Montecito. Let me get a backup! Male Hispanic, grey sweater, blue jeans." Officer Rivas stated he was pursuing Julio Rodriguez in containment mode until additional resources responded to assist (**Additional Tactical Debrief Topics – Foot Pursuit Broadcast**).

**Note:** The FID review of Communications Division (CD) recordings of the Northeast Area frequency determined that Officer Rivas' broadcast was not received by CD. Additionally, according to Officer Rodriguez, he and Officer Rivas were in apprehension mode during the foot pursuit.

According to the FID investigation, Julio Rodriguez ran west into the driveway of the residence located at 4415 Griffin Avenue and up to three trash cans that were placed against a chain link gate that separated the driveway from the rear yard.<sup>14</sup> As Officer Rivas arrived at the apron of the driveway, he gave Julio Rodriguez verbal commands. Officer Rivas observed Julio Rodriguez standing facing in a northerly direction and remove a handgun from his front waistband area with his right hand. As Julio Rodriguez raised the handgun up from his waistband area, the handgun was pointed in an easterly direction.

According to Officer Rivas, as he approached the driveway of 4415 Griffin Avenue, he observed Julio Rodriguez *in the driveway*. Officer Rivas observed Julio Rodriguez' body in a *bladed* position as Julio Rodriguez *reached into his waistband, extended his hand up, while holding what Officer Rivas believed was a gun towards his direction*. Officer Rivas observations led him to believe Julio Rodriguez *was going to shoot a round at him and he felt like his life was in danger*. Based on his observations of Julio Rodriguez removing a handgun from *his waistband* and extending his arm out toward him, Officer Rivas discharged one round from his service pistol while aiming for *center mass* in order to defend his life from the imminent lethal threat presented by Julio Rodriguez. Officer Rivas, while continually assessing, observed Julio Rodriguez raise his arm upward and throw the handgun over Julio Rodriguez' head into the rear yard of 4415 Griffin Avenue. Officer Rivas observed that Julio Rodriguez no longer had a handgun in his hand, and determined Julio Rodriguez was no longer an imminent lethal threat. Officer Rivas commanded Julio Rodriguez to get on the ground multiple times as Julio Rodriguez continued to be non-compliant and delayed his movement prior to repositioning himself down to his knees (**Lethal Force**).

According to the FID investigation, immediately following the OIS, Officer Rodriguez ceased running and stood in the street next to a parked vehicle, approximately two car lengths from Officer Rivas. Officer Rodriguez holstered his service pistol and removed his hand-held police radio from its holder as he asked Officer Rivas if there had been a "shot fired."

**Note:** Force Investigation Division determined that Officers Rivas and Rodriguez were approximately 39 feet apart when the OIS occurred.

According to Officer Rodriguez, he observed Officer Rivas *take a shooting stance and then saw a muzzle flash* from Officer Rivas' service pistol. Officer Rodriguez stated, "Once I saw the muzzle flash, I saw the chamber and it was like -- kind of like a red flair coming out of the red chamber where the shell ejects." At the time the round was discharged, Officer Rodriguez' BWV captured audio of the service pistol firing; however, it did not capture Officer Rivas' location and actions at the time the round was discharged.

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<sup>14</sup> The foot pursuit covered an approximate distance of 528 feet with a duration of approximately 25 seconds.

According to the FID investigation, at 0010:12 hours, Officer Rodriguez broadcast, "11A37, Shots fired officer needs help."<sup>15</sup> Officer Rodriguez drew his service pistol a second time as he moved from the street, onto the sidewalk south of the driveway.

According to Officer Rodriguez, from his position he had line of sight on Officer Rivas. Immediately following the OIS, he holstered his service pistol to prevent a *negligent discharge*. Officer Rodriguez utilized his hand held police radio to broadcast a shots fired, officer needs help request. Officer Rodriguez had knowledge that Officer Rivas *observed a gun* and Julio Rodriguez was still *unhandcuffed*. Officer Rodriguez simultaneously drew his service pistol as he completed his broadcast based on the fact that Julio Rodriguez *was not in custody* and his belief *the threat was still pretty high (Drawing/Exhibiting – Second Occurrence)*.

According to the FID investigation, Officer Rodriguez had paused on the sidewalk to locate the address of residence as the Radio Telephone Operator (RTO) broadcast an "Officer Needs Help Call" and requested a better location. Officer Rodriguez responded with a broadcast of "Avenue 43 and Griffin Avenue, just west of the liquor store" [**Additional Tactical Debrief Topic – Situational Awareness (Did not Know Location/Wrong Location Given)**].

According to the FID investigation, as Officer Rodriguez was positioned on the west sidewalk in front of 4415 Griffin Avenue, Officer Rivas approached Julio Rodriguez and provided numerous commands to Julio Rodriguez to lay down on the ground to which Julio Rodriguez refused to comply. As Officer Rivas continued to close distance to Julio Rodriguez, he warned Julio Rodriguez that he would utilize a TASER as he commanded Julio Rodriguez to place his chest on the ground. Julio Rodriguez leaned forward placing his palms on the ground while he remained on his knees. As Officer Rivas gave additional command for Julio Rodriguez to lay down on the ground, Julio Rodriguez raised back up onto his knees (**Debriefing Point No. 4 – Approaching a Possibly Armed Suspect**).

According to the FID investigation, Officer Rivas, while holding his service pistol in his right hand, drew his TASER with his left hand and provided Julio Rodriguez another verbal warning that Officer Rivas would "tase" him.

According to Officer Rivas, he was concerned that Julio Rodriguez would attempt to reposition and rearm himself, so he drew his TASER in an effort to de-escalate the situation. Officer Rivas activated the red dot sight of the TASER and targeted them on Julio Rodriguez' torso area. Julio Rodriguez complied with Officer Rivas' commands and laid down in a prone position on his stomach. Officer Rivas holstered his service pistol and utilized his TASER to maintain less-

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<sup>15</sup> In response to the "Help Call," the following Hollenbeck Patrol Division and Northeast Patrol Division uniformed officers responded Code Three to the "Help Call" and activated their BWV cameras during their response: Officers O. Hernandez, Serial No. 43638 and G. Arias, Serial No. 41484, Unit 4A18, Officers E. Artiaga, Serial No. 40509 and K. Delgado, Serial No. 43038, Unit 4A59, Officers C. Hosea, Serial No. 43216 and A. Lopez, Serial No. 42697, Unit 4A6; Officers J. Geraci, Serial No. 35686, and L. Frais, Serial No. 43725, Unit 11A71, Officers J. Perez, Serial No. 30847 and S. Lawson, Serial No. 43765, Unit 11X26, Officers J. Koby, Serial No. 41647 and J. Ramos, Serial No. 42600, Unit 11A1, Officers J. Potts, Serial No. 36240 and K. King, Serial No. 43942, Unit 11X58, Officers R. Ramirez, Serial No. 42730 and J. Wilde, Serial No. 39379, Unit 11A95.

lethal cover on Julio Rodriguez with the TASER with the red dot sight targeted on the center of Rodriguez' back as he moved into close proximity to Julio Rodriguez (**Additional Tactical Debrief Topics – Holding Service Pistol in one Hand and TASER in Other and Use of Force Warning**).

According to the FID investigation, Officer Rodriguez approached west up the driveway towards Officer Rivas and commanded Julio Rodriguez, "Don't reach for the gun or whatever you have in your pocket." Officer Rodriguez held his service pistol in in his right hand, providing lethal cover for Officer Rivas, while holding his hand-held police radio in his left hand. Officer Rivas holstered his TASER and placed his left hand on Julio Rodriguez' back between his shoulder blades. Officer Rivas took hold of Julio Rodriguez' right arm with his right hand and gave the command to "put your hands behind your back." Officer Rivas guided Julio Rodriguez' right arm behind his back, and then transitioned his hold of Julio Rodriguez' right wrist to his left hand; as he retrieved his handcuffs with his right hand. Officer Rivas then placed a handcuff on Rodriguez' right wrist and then one on the left wrist securing Julio Rodriguez' hands behind his back. Officer Rivas double locked the handcuffs, began to examine Julio Rodriguez for injuries, and inquired if Julio Rodriguez had been struck by gunfire (**Additional Tactical Debrief Topics – Contact and Cover Roles/Tactics and Holding Radio in One Hand and Service Pistol in Other**).

**Note:** According to Officer Rodriguez, Officer Rivas was on top of Julio Rodriguez. Force Investigation Division investigators' review of Officers Rivas and Rodriguez's BWV did not capture any images of Officer Rivas kneeling on Julio Rodriguez' back.

According to the FID investigation, Officer Rivas directed Officer Rodriguez to obtain the address of the residence they were located at in order to provide a more precise location for responding resources. At 0011:45 hours, Officer Rodriguez utilized his flashlight to illuminate the front of the residence to verify the address and then broadcast, "11A37 a better address is 4415 Griffin Avenue."

According to Officer Rodriguez, Julio Rodriguez was handcuffed, so he walked out to the street and turned on his flashlight to direct responding resources to their location. Officer Rodriguez further stated that from his position at the end of the driveway he had a clear line of sight to his partner.

According to the FID investigation, at approximately 0011:56 hours, Sergeant J. Borjas, Serial No. 37922, Northeast Patrol Division, assigned Unit 11L50, Watch Three, broadcast that he was responding to the "Help Call." Sergeant Borjas, while enroute to Officer Rivas and Rodriguez' location, read the comments of the call to get situational awareness and to determine what was needed at the scene. Officers J. Moyers, Serial No. 37846 and J. Roman, Serial No. 37309, Northeast Patrol Division, assigned to Unit 11A89, Watch Three, responded Code Three to the officer needs help call and were the first unit to arrive.



According to the FID investigation, at 0012:30 hours, as Officer Moyers drove east on Avenue 43 approaching Griffin Avenue, Officer Roman broadcast that they were Code Six. Officer Moyers drove north on Griffin Avenue and parked in the Southbound lane of traffic one residence south of 4415 Griffin Avenue. As Officers Moyers and Roman exited their police vehicle, Officer Rodriguez advised them that the suspect was in custody. Officers Moyers and Roman ran into the driveway and met with Officer Rivas. Officer Rivas advised them that Julio Rodriguez had thrown the handgun he was armed with into the back yard of the residence. Officer Moyers walked around the trash cans in front of the gate leading to the rear yard and lifted the gate up off the hinges and opened it to gain access to the back yard. Officer Roman took custody of Julio Rodriguez from Officer Rivas and advised that he would take over communications responsibility. Officer Roman directed Officer Rivas to go with Officer Moyers to search for the outstanding handgun.

According to the FID investigation, at 0013:40 hours, Officer Roman broadcast, "A89 for A37, there is a Code Four. The suspect is in custody, get me a supervisor and you're probably going to need three additional units." The RTO broadcast a "Code Four" over Northeast area frequency. As Officer Moyers and Officer Rivas entered the back yard, Officer Rivas advised him that there were no additional outstanding suspects. The officers utilized their flashlights to search the area for the handgun and Officer Moyers discussed requesting a "gun dog" to assist with the search just prior to locating the handgun.<sup>16</sup> At 0014:06 hours, Officer Moyers located the handgun laying on the ground next to a plastic shed in the rear yard of 4415 Griffin Avenue.<sup>17</sup> Officer Moyers repositioned a metal chair away from the handgun approximately two feet to the west of its location as Officer Rivas told him to not move the handgun.<sup>18</sup> Officer Rivas walked to Officer Moyers' location and illuminated the handgun with his flashlight. Officer Moyers advised Officer Rivas that he would monitor the handgun and directed him to return to his partner.

According to the FID investigation, Officer Rivas returned to the front of the residence where Officer Roman was standing in the driveway. Officer Roman assisted Julio Rodriguez to his feet and walked Julio Rodriguez to his police vehicle. Officer Roman conducted a search of Julio Rodriguez incident to arrest and recovered a gold colored cellular telephone and a clear plastic bag containing an off white powder substance resembling methamphetamine from Julio Rodriguez' left front pants pockets. Officer Roman secured Julio Rodriguez in the rear seat of his assigned police vehicle.

According to the FID investigation, at approximately 0014:35 hours, Police Pilot G. Duran, Serial No. 27766, and Tactical Flight Officer (TFO) M. Sikorski, Serial No. 38372, Air Support Division (ASD), assigned Unit Air 3, arrived overhead and provided aerial support to responding units including directing officers to perimeter and containment positions.

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<sup>16</sup> "Gun dog" is police jargon meaning a K-9 police dog that has been trained to search for and locate firearms.

<sup>17</sup> Forensic Science Division personnel conducted a Serology/DNA-STRI analysis report, which determined the DNA profile obtained from the swab of the handgun was consistent with Julio Rodriguez' DNA.

<sup>18</sup> Force Investigation Division investigators' review of the crime scene investigation notes, evidence collection reports and the officers' BWV, determined that Officer Moyers action of moving the chair did not have a significant effect on the evidence.

According to the FID investigation, at 0014:40 hours, Officers C. Silva, Serial No. 34368 and A. Vargas, Serial No. 36521, Northeast Patrol Division, assigned Unit 1FB2, arrived on scene and parked on Griffin Avenue north of Avenue 43. Officer Silva broadcast that they were Code Six and a request for responding units to stop traffic on Griffin Avenue north of the location. As Officers Silva and Vargas approached 4415 Griffin Avenue, they located Officers Rivas and Rodriguez standing near the driveway. Officer Rivas advised that they needed to be separated. Officer Vargas led Officer Rodriguez north away from the other officers. Officer Vargas admonished Officer Rodriguez to not speak to anyone about the incident and to not view any social media. Officer Vargas advised he would be separating and monitoring Officer Rodriguez until the arrival of a supervisor and further explained the Public Safety Statement (PSS) process as well as provided a Los Angeles Police Protective League card.<sup>19</sup>

According to the FID investigation, at 0017:09 hours, Officer Rivas notified Officer Silva that an OIS had occurred. Officer Silva then broadcast on Northeast area frequency that an inner and outer perimeter containment was needed to be established. Officer Silva directed responding officers to start a crime scene log and to secure the inner and outer perimeter with crime scene tape. Officer Silva made a second broadcast directing units on the perimeter to stop all vehicle traffic from entering or exiting Griffin Avenue.

According to the FID investigation, at approximately 0017:10 hours, Sergeant Borjas arrived at scene and broadcast that he was the Incident Commander (IC). Sergeant Borjas parked at the intersection of Avenue 43 and Griffin Avenue, walked to 4415 Griffin Avenue, and located Officer Rivas. Sergeant Borjas was notified by Officer Rivas that there was an OIS with only one officer involved and the suspect was in custody. Sergeant Borjas directed Officer Rivas to standby with Officer Artiaga as he assessed the scene and established control of the incident. Officer Silva advised Sergeant Borjas that officers were securing the crime scene and that a crime scene log had been initiated. At 0019:31 hours, Sergeant Borjas broadcast a request for an additional supervisor to respond to the scene. Sergeant Borjas then directed Officer Frai to secure the front of the residence at 4415 Griffin Avenue with crime scene tape and to not allow any one inside the inner perimeter.

According to the FID investigation, at 0020 hours, Sergeant M. Flores, Serial No. 35346, Northeast Patrol Division, assigned Unit 11L130, Watch Three, responded to the "Supervisor Request," arrived on scene, and met with Sergeant Borjas. Upon being briefed, Sergeant Flores initiated the separation and monitoring of Officer Rivas. Sergeant Flores walked Officer Rivas out of the crime scene to his police vehicle.

According to the FID investigation, at 0023:20 hours, Sergeant Borjas established a Command Post (CP). At approximately 0023:30 hours, Lieutenant L. Lozano, Serial No. 32100, Northeast Patrol Division, Watch Commander, arrived on scene, and broadcast he would be assuming the

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<sup>19</sup> The card defined the Public Safety Officers Procedural Bill of Rights Act on one side and the Recommended Procedure for Public Safety Statements on the other side.

role of IC. Lieutenant Lozano met with Sergeant Borjas and received a brief regarding the details of the incident. At approximately 0027 hours, Sergeant Borjas took over the monitoring of Officer Rodriguez from Officer Vargas.

According to the FID investigation, at approximately 0028 hours, Sergeant Flores, admonished Officer Rivas not to discuss the incident with anyone, unless ordered to by FID. Sergeant Flores directed Officer Rivas to turn off his BWV camera and took possession of Officer Rivas' camera. At approximately 0030 hours, Sergeant Flores took a PSS from Officer Rivas. Sergeant Flores transported Officer Rivas to the Northeast Community Police Station and monitored him until 0129 hours, at which time Sergeant C. Gomez, Serial No. 33237, Northeast Patrol Division, took over monitoring Officer Rivas until he was interviewed by FID investigators.

According to the FID investigation, at approximately 0052 hours, Lieutenant Lozano admonished Officer Rodriguez to not speak about the incident with anyone. Lieutenant Lozano directed Detective II R. Chavarria, Serial No. 30816, Hollenbeck Area Detectives, to assume the monitoring of Officer Rodriguez.<sup>20</sup> Detective Chavarria directed Officer Rodriguez to turn off his BWV camera and relinquish it to Sergeant Borjas. Detective Chavarria transported Officer Rodriguez to Northeast Community Police Station, where they remained until Officer Rodriguez was interviewed by FID Investigators.

On January 5, 2020, at approximately 0059 hours, the Department Operations Center (DOC) was notified of the "Officer Involved Shooting" incident. At 0111 hours, the DOC notified FID of the Categorical Use of Force (CUOF).

## **FINDINGS**

**Tactics** – Administrative Disapproval, Officers Rivas and Rodriguez.

**Drawing/Exhibiting** – In Policy, No Further Action, Officers Rivas and Rodriguez.

**Lethal Use of Force** – In Policy, No Further Action, Officer Rivas.

## **ANALYSIS**<sup>21</sup>

### **Detention**

Officers Rivas obtained information of a possible man with a handgun near the intersection of Avenue 43 and Griffin Avenue through the use of a fictitious social media profile. Officers Rivas and Rodriguez proceeded to the location in an attempt to locate the possible suspect who was armed with a handgun. Officers Rivas and Rodriguez observed Julio Rodriguez and conducted a pedestrian stop for a curfew and narcotics violation. Shortly after officers initiated contact and Officer Rivas observed a bulge in the individual's right front pants pocket,

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<sup>20</sup> At the time of this incident, Detective Chavarria was a detective supervisor.

<sup>21</sup> The analysis reflects my recommendations as supported by the preponderance of the evidence established by the FID investigation.

Julio Rodriguez fled on foot. Coupled with their information about a man with a gun, the Officers believed that Rodriguez' actions to cover the bulge with his hand and run away was consistent with concealing a firearm. Officers Rivas and Rodriguez followed Julio Rodriguez in foot pursuit. The incident resulted in an OIS. The actions of Officers Rivas and Rodriguez detaining Julio Rodriguez were appropriate and within Department policies and procedures.

## **Tactics**

Department policy relative to a Tactical Debrief is: *"The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance."*

Department policy relative to Administrative Disapproval is: *"A finding, supported by a preponderance of the evidence that the tactics employed during a CUOF incident unjustifiably and substantially deviated from approved Department tactical training"* (Los Angeles Police Department Manual, Volume 3, Section 792.05).

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

## Tactical De-Escalation

*Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

### Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication (Los Angeles Police Department, Use of Force - Tactics Directive No. 16, Tactical De-Escalation Techniques, October 2016).*

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

**Planning** – Officers Rivas and Rodriguez had worked together as partners on two occasions during the three months prior to this incident. During those instances, Officers Rivas and

Rodriguez discussed tactical concepts including contact and cover roles, foot pursuits, communication roles including Code Six broadcasts, and de-escalation strategies. Officers Rivas and Rodriguez discussed that in event of a foot pursuit, one of them needed to broadcast the foot pursuit, request additional resources, and any additional pertinent information. Additionally, Officers Rivas and Rodriguez determined that if one officer made contact with an individual, the other officer would be the communications officer and would place them Code Six.

During this encounter, Officer Rivas advised his partner of the high gang and narcotics activity in the area of Avenue 43 and Griffin Avenue. Officer Rivas, after viewing the social media video depicting an individual with a handgun, advised his partner that there may possibly be a suspect armed with a handgun in the area of Avenue 43 and Griffin Avenue. As Officer Rivas drove towards that location, Officers Rivas and Rodriguez determined they would attempt to locate a possible suspect armed with a handgun, and if they did locate them, they would immediately request additional resources.

The UOFRB was critical of the general tactical plan discussed between Officers Rivas and Rodriguez, including their relaxed approach to Julio Rodriguez, who they believed was possibly armed with a handgun. Additionally, the UOFRB noted that Officers Rivas and Rodriguez did not request any additional resources prior to attempting to stop a potentially armed suspect and did not notify a supervisor of the information they had obtained, specifically that the potentially armed suspect was located in an area outside of their division of assignment. The UOFRB also noted the requirements of Officer Rivas to notify his commanding officer of his utilization of a personal cellular telephone to monitor social media for criminal activity. However, the UOFRB acknowledged the tactical situation escalated swiftly and evolved rapidly based on Julio Rodriguez' sudden actions which escalated the encounter.

**Assessment** – Officer Rivas stated that, upon viewing the social media video, assessed the likelihood of the suspect still being at the 4302 Griffin Avenue and thought it was not good. However, he determined it would be beneficial to drive by the location to see if the suspect was still in the area. He provided general information on the location to Officer Rodriguez and informed him there may be a possible suspect with a handgun. Upon Officers Rivas and Rodriguez' arrival at Griffin Avenue north of Avenue 43, officers observed Julio Rodriguez standing in front of 4302 Griffin Avenue and believed he was in violation of both curfew and narcotics regulations. After making verbal contact with Julio Rodriguez, Officer Rivas observed a bulge in Julio Rodriguez' front right pocket and based on his assessment believed Julio Rodriguez was the suspect he observed in the social media video that he had viewed prior to the incident. Officer Rivas immediately formed the opinion that Julio Rodriguez was armed with a handgun, drew his service pistol, and began pursuing Julio Rodriguez north on Griffin Avenue.

Officer Rivas, while in foot pursuit, assessed the tactical situation and believed it was prudent to request additional resources for a suspect armed with a handgun. Officer Rivas immediately attempted to broadcast utilizing his hand-held police radio that he and his partner were in foot pursuit of a suspect armed with a handgun, their location, direction of travel, and the description of the suspect's clothing. As Julio Rodriguez ran west into the driveway of 4415 Griffin Avenue, Officer Rivas followed and observed Julio Rodriguez reach into his pants pocket,

retrieve a handgun, and raise his right arm extended towards Officer Rivas while holding the handgun. Officer Rivas assessed the imminent threat presented by Julio Rodriguez' actions, subsequently leading to an OIS. Officer Rivas observed Julio Rodriguez continue his upward arm motion and throw the handgun over his head into the rear yard of the residence. Officer Rivas assessed and determined Julio Rodriguez no longer represented an imminent lethal threat. Immediately following the OIS, Officer Rodriguez assessed the tactical situation, attempted to confirm with Officer Rivas if an OIS had occurred and broadcast a shots fired officer needs help request.

Officer Rivas continued to assess and based on Julio Rodriguez' refusal to get on the ground, Officer Rivas believed Julio Rodriguez may attempt to flee into the rear yard and rearm himself. Officer Rivas closed distance with Julio Rodriguez and based on his assessment of the tactical situation, deployed his TASER in an attempt to de-escalate the encounter and compel Julio Rodriguez to comply with his commands to get on the ground.

The UOFRB noted that the tactical situation escalated very quickly and though Officer Rivas observed a bulge in Julio Rodriguez' pants pocket and based on his assessment formed the opinion the bulge was a handgun, he did not communicate his observation to Officer Rodriguez. Additionally, the UOFRB opined Officers Rivas' overall lack of communication to Officer Rodriguez of his assessments of the rapidly evolving tactical situation and his intended tactical responses were deficient.

**Time** – Upon Officer Rivas' viewing of the social media video, Officer Rivas and Rodriguez proceeded to drive over to the area of Avenue 43 and Griffin Avenue. Officers discussed the criminal activity in the area as well as the possibility of there being a suspect armed with a gun. Upon their arrival to the area, they observed Julio Rodriguez in front of 4302 Griffin Avenue and conducted a pedestrian stop for curfew and narcotics violations. Once Officer Rivas initiated verbal contact with Julio Rodriguez, the incident rapidly escalated when Officer Rivas observed a bulge in Julio Rodriguez's front right pocket and asked him if he could search Julio Rodriguez. Officer Rivas upon forming the opinion that the bulge in Julio Rodriguez' pants pocket was a handgun, attempted to give Julio Rodriguez commands to place his hands on his back and grasp a hold of Julio Rodriguez. However, Julio Rodriguez placed his hand on the object in this pants pocket and fled from Officers Rivas and Rodriguez.

Officers Rivas and Rodriguez followed Julio Rodriguez in foot pursuit north on Griffin Avenue. The UOFRB considered the 528 feet covered during the foot pursuit in approximately 25 seconds. During the foot pursuit, Officer Rivas utilized his hand-held police radio to attempt to broadcast that he and Officer Rodriguez were in foot pursuit, their location, the suspected crime, and the description of the suspect. Upon Officer Rivas turning west towards the driveway of 4415 Griffin Avenue, he observed Julio Rodriguez reach into his pants pocket, retrieve a handgun, and raise his right arm extended towards Officer Rivas while holding a handgun. Officer Rivas assessed the imminent threat presented by Julio Rodriguez' actions, subsequently resulting in an OIS.

The UOFRB noted that Officers Rivas and Rodriguez conducted a self-initiated pedestrian stop on Julio Rodriguez and there did not appear to be exigency. The UOFRB considered that there appeared to be sufficient time to formulate additional tactical plans and request additional resources. However, the UOFRB considered that once Officers Rivas and Rodriguez conducted their pedestrian stop of Julio Rodriguez, Julio Rodriguez' actions escalated the incident and led to a dynamic and rapidly evolving tactical situation which culminated in an OIS. The UOFRB considered that the investigation determined that four tenths of a second elapsed from when Julio Rodriguez began his upward extended arm movement while holding the handgun to when Officer Rivas discharged his service pistol. After the OIS, the UOFRB noted there appeared to be sufficient time for Officer Rivas to provide a complete Use of Force Warning when he deployed his TASER.

**Redeployment and/or Containment** – As Julio Rodriguez fled north on Griffin Avenue, Officers Rivas and Rodriguez continued after him in foot pursuit while attempting to maintain visual contact and request additional resources to assist with containment and eventual apprehension. Officer Rivas attempted to broadcast the foot pursuit, location, direction of travel, suspected crime, and Julio Rodriguez' description. Officer Rivas requested additional resources to respond to assist with containment. Following the OIS, Officer Rivas redeployed and proceeded to approach and close distance on Julio Rodriguez based on his fear that Julio Rodriguez would attempt to flee into the rear yard of the residence and rearm himself with the handgun he had thrown. Officer Rivas believed Julio Rodriguez presented a danger to the residents at the location as well as for him and his partner.

Immediately following the OIS, Officer Rodriguez took cover behind a parked vehicle and attempted to communicate with Officer Rivas who was focused on Julio Rodriguez. Officer Rodriguez broadcast a help call and proceeded to redeploy to the west sidewalk of Griffin Avenue in an attempt to locate an address for the residence while maintaining line of sight with Officer Rivas who had approached Julio Rodriguez. Officer Rodriguez once again redeployed and moved west up the driveway of the residence in order to provide lethal cover for Officer Rivas as Officer Rivas handcuffed Julio Rodriguez.

The UOFRB noted although Officers Rivas and Rodriguez stated they had discussed apprehension versus containment as part of their overall tactical discussions during foot pursuits, there was some confusion between the two officers regarding the tactical concept due to their lack of communication. The UOFRB considered Officer Rivas requested additional resources, but did not request a perimeter to be established. The UOFRB noted Julio Rodriguez fled suddenly without warning and Officers Rivas and Rodriguez were forced to react to Julio Rodriguez' actions.

**Other Resources** – Officer Rivas utilized a fictitious social media profile to monitor gang and criminal activity in the communities that made up Northeast Area. Officer Rivas additionally attempted to request additional resources while in foot pursuit of Julio Rodriguez. Officer Rodriguez later broadcast a help call in order to have additional resources respond as soon as possible to their location.

Officer Rivas deployed a TASER, based on Julio Rodriguez refusing to comply with commands to place himself on the ground. Upon Officer Rivas' deployment of the TASER and warning that Julio Rodriguez would be "tased," Julio Rodriguez elected to comply with Officer Rivas' commands to place himself on the ground. Officer Rivas utilized the TASER as a de-escalation tool to compel Julio Rodriguez to comply with commands, so he could be handcuffed and taken into custody. Upon the arrival of additional resources, Officers Rivas and Moyers while searching the rear yard of 4415 Griffin Avenue for the handgun Julio Rodriguez had thrown, discussed requesting a "gun dog" to respond to the location. Officer Moyers located the handgun in the rear yard prior to a "gun dog" being required.

Upon Julio Rodriguez complaint of stomach pain and nausea while seated in Officer Roman's police vehicle, Officer Roman immediately, without delay requested a Rescue Ambulance (RA) to evaluate the level of Julio Rodriguez' medical distress.

The UOFRB noted there was sufficient time prior to the encounter for Officers Rivas and Rodriguez to notify a supervisor and additional resources considering they were outside their division of responsibility and were attempting to locate a suspect armed with a handgun. The UOFRB noted the initiative and creative approach of Officer Rivas in utilizing a fictitious social media profile to monitor crime. However, Officer Rivas did not follow Department policy as required.

**Lines of Communication** – Officers Rivas and Rodriguez initially established lines of communication with each other while discussing their basic tactical plans as well as on the way to Avenue 43 and Griffin Avenue. Officer Rivas and Rodriguez discussed the gang and criminal activity in the area as well the fact that Officer Rivas had knowledge of a possible suspect armed with a handgun at the location. Upon the arrival of Officers Rivas and Rodriguez in front of 4302 Griffin Avenue, Officer Rivas immediately established lines of communication with Julio Rodriguez as Officers Rivas and Rodriguez approached the east sidewalk of Griffin Avenue.

As Officer Rivas established verbal contact with Julio Rodriguez, he observed a bulge in Julio Rodriguez' right front pants pocket. As Officer Rivas asked if he could conduct a pat down search of Julio Rodriguez, Julio Rodriguez placed his right hand down on his right front pants pocket. Officer Rivas commanded Julio Rodriguez not to reach for the object and then commanded Julio Rodriguez to put his hands behind his back as Julio Rodriguez fled on foot north on Griffin Avenue. Officer Rivas attempted to establish lines of communication with additional resources in the area when he attempted to broadcast the foot pursuit, location, direction of travel, crime committed, and suspect description.

As Officer Rivas moved west towards the driveway of 4415 Griffin Avenue, Officer Rivas commanded Julio Rodriguez to put his hands up just prior to the OIS. Immediately following the OIS, Officer Rodriguez attempted to establish lines of communication with Officer Rivas to confirm an OIS had occurred. Officer Rodriguez established lines of communication with CD and additional resources by broadcasting a shots fired, officer needs help request. Officer Rivas as he approached west up the driveway towards Julio Rodriguez, provided numerous commands



to Julio Rodriguez to place himself on the ground to which Julio Rodriguez refused to comply. Officer Rivas eventually deployed his TASER and warned Julio Rodriguez if he did not get on the ground he would be “tased.” After Officer Rivas’ warning, Julio Rodriguez immediately complied with the command and placed himself on the ground and was handcuffed without incident.

Officers Rivas and Rodriguez established lines of communication with Officers Moyers and Roman as they arrived on scene and determined that Officer Roman would take over communications and custody of Julio Rodriguez, while Officers Rivas and Moyers attempted to locate the outstanding handgun that had been thrown by Julio Rodriguez. Officer Rodriguez moved to the street and directed additional resources to the location.

The UOFRB noted, and I concur, that Officers Rivas and Rodriguez should have utilized the time they were afforded to devise a more thorough tactical plan utilizing additional resources earlier. However, the officers attempted to open lines of communication with Julio Rodriguez, and based on Julio Rodriguez’ sudden and escalating actions in response to Officer Rivas’ observations of a bulge in Julio Rodriguez’ right front pants pocket, reacted to a swiftly evolving tactical scenario in which officers were required to adapt their tactics to Julio Rodriguez’ actions. Officer Rivas attempted to continue to establish open lines of communication with Julio Rodriguez by providing clear commands to put his hands behind his back and get on the ground in order to have Julio Rodriguez surrender peacefully without the use of any force. Julio Rodriguez did not comply with commands until after the OIS when Officer Rivas deployed his TASER and warned Julio Rodriguez that Officer Rivas would utilize the TASER if Julio Rodriguez did not get on the ground.

During the review of the incident, the following Debriefing Topics were noted:

**Debriefing Point No. 1      Tactical Planning/Communication** (Substantial Deviation, without Justification – Officers Rivas and Rodriguez)

*Officers must approach every contact, whether a consensual encounter or a lawful detention, with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack (California Commission on Peace Officer Standards and Training, Learning Domain 21).*

*In order to ensure officer safety and help ensure an appropriate outcome, the primary officers and cover officers must effectively communicate with one another. Appropriate communication involves:*

- *Advising the primary officer of any critical occurrences or safety issues (e.g., movement within the target vehicle, someone approaching outside the primary officer’s field of vision, possible crossfire situations, etc.),*
- *Avoid inappropriate interruptions, and*
- *Avoid giving directions which conflict with those given by the primary officer. Only one person, usually the primary officer, gives the commands, unless a specific*

*situation calls for another officer to issue a command (California Commission on Peace Officers Standards and Training, Learning Domain No. 22).*

Officers Rivas and Rodriguez failed to discuss, develop, and communicate a clear and thorough tactical plan related to their response to a suspect possibly armed with handgun.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their recognition of an unsafe situation and by working together collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this case, it was Officers Rivas and Rodriguez' third time working together, and they discussed general tactical concepts related to their response to various tactical situations which included contact and cover roles, foot pursuits, communication roles including Code Six broadcasts, and de-escalation strategies. Additionally, Officers Rivas and Rodriguez determined that if one officer made contact with an individual, the other officer would be the communications officer and would place them Code Six. The UOFRB noted that upon Officer Rivas obtaining knowledge of a possible suspect armed with a handgun at Avenue 43 and Griffin Avenue, he proceeded to the location and only advised Officer Rodriguez that there was possibly a suspect armed with a handgun.

The UOFRB was critical of Officer Rivas' reluctance to communicate to Officer Rodriguez of the information he obtained and failure to take the time the officers had to formulate a more thorough plan on confronting a possible suspect armed with a handgun. The UOFRB noted Officers Rivas and Rodriguez discussed the high gang and narcotics activity that occurred in the area of Avenue 43 and Griffin Avenue as well as their tactical plan to request additional resources if they encountered a suspect armed with a handgun. The UOFRB considered Officers Rivas and Rodriguez did not notify a supervisor, even though Avenue 43 and Griffin Avenue was located in Hollenbeck Area, and that they did not request any additional resources prior to their approach of a suspect possibly armed with a handgun. Additionally, the UOFRB noted the lack of communication between Officers Rivas and Rodriguez from the beginning to the end of the encounter.

On their approach to the scene, Officers Rivas and Rodriguez both observed Julio Rodriguez on the east sidewalk of Griffin Avenue speaking to the occupant of a dark colored vehicle. However, neither officers communicated the reason for their pedestrian stop to each other which led to both officers forming similar, but slightly different reasonable suspicions for the stop. The UOFRB noted that the lack of planning and communication by Officers Rivas and Rodriguez led to poor tactics as the officers contacted Julio Rodriguez and a casual method of approach. As Officer Rivas was engaged in verbal contact with Julio Rodriguez, he observed a bulge in Julio Rodriguez' front right pant pocket and opined that Julio Rodriguez was the same individual he had observed in the social media video he had viewed prior to the encounter. The UOFRB noted

Officer Rivas did not communicate with Officer Rodriguez what he observed and his opinion that Julio Rodriguez was armed with a handgun and proceeded to follow after Julio Rodriguez as he fled north on Griffin Avenue.

The UOFRB considered that Officer Rivas was an experienced officer with approximately five years as a police officer while Officer Rodriguez was still a probationary officer with approximately nine months of experience. The UOFRB was critical of Officer Rivas's role in the lack of tactical planning and communication prior to and during the incident. The UOFRB opined Officer Rivas did not take responsibility, as the more experienced and senior officer, to engage his partner in developing a clear tactical plan including approaching a possibly armed suspect, contact and cover roles, foot pursuits, apprehension versus containment, and the importance of communication throughout an incident. Additionally, the UOFRB considered that though Officer Rodriguez was a probationary officer, he was in the final phase of his training and the Department's expectation was that he would communicate with his partner to develop a better plan or clarify if he is unsure of the tactical plan. The UOFRB noted the lack of tactical planning and communication led to confusion between Officers Rivas and Rodriguez regarding whether they were in apprehension mode or containment mode during the foot pursuit of Julio Rodriguez.

The UOFRB considered that immediately following the OIS, Officer Rodriguez attempted to communicate with Officer Rivas to determine if an OIS had just occurred. However, as Officer Rivas began to move forward and approach Julio Rodriguez, Officers Rivas and Rodriguez did not communicate their intentions which led to a difference in their approach as Officer Rivas moved forward and closed distance while Officer Rodriguez, while utilizing cover, attempted to find an address to broadcast a more precise location for responding units.

The UOFRB was critical of the lack of tactical communication between the officers which provided confusion in their tactical approach and created a tactically disadvantageous situation. Officers Rivas and Rodriguez approached the tactical situation from different perspectives, leading to tactical decisions made independently of each other, and ultimately led to various tactical issues arising from their lack of tactical planning and communication.

Based on the totality of the circumstances, the UOFRB determined, and I concur that Officers Rivas and Rodriguez' lack of tactical planning and communication was a substantial deviation, without justification, from approved Department tactical training. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

**Debriefing Point No. 2**      **Code Six** (Substantial Deviation, without Justification – Officers Rivas and Rodriguez)

*When a unit is conducting a field investigation and no assistance is anticipated, a "Code Six," followed by the location, shall be broadcast. A unit shall not go "Code Six" until it arrives at the scene of a call.*

*Units on "Code Six" status shall remain available for reassignment to priority calls by monitoring their radio frequencies. A unit on "Code Six" status may indicate to the dispatcher additional circumstances which will make the unit unavailable for assignment to a priority call. These circumstances may include:*

- *Suspect in custody;*
- *Primary unit at a crime scene; and/or,*
- *Required at a backup, assistance, or help location.*

*Note: The unit shall notify the dispatcher as soon as it is again available for radio calls (Los Angeles Police Department Manual, Volume 4, Section 120.40).*

The purpose of broadcasting a Code Six location is to advise CD and officers in the area of the officers' location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel. Vehicle and pedestrian stops can be dangerous, as the identity and actions of a person stopped is often unknown, and as in this case, their actions can be unpredictable.

Officers Rivas and Rodriguez did not advise CD of their location prior to engaging in a pedestrian stop and did not go Code Six until after the OIS had occurred.

The UOFRB noted that both officers were familiar with the area, including the gang and narcotics activity they had both observed in prior incidents. However, due to their lack of communication, neither officer verified that one of them had broadcast they were Code Six and their location. The UOFRB noted due to a lack of planning, there was confusion between Officer Rivas and Rodriguez on who would be communicating and broadcasting their Code Six location. The UOFRB considered that due to Officers Rivas and Rodriguez not placing themselves Code Six, and Officer Rivas attempted foot pursuit broadcast not making it out over the frequency, the first broadcast to CD and additional resources in the area, occurred after the OIS had already occurred.

The UOFRB noted that Officers Rivas and Rodriguez had sufficient time to broadcast their Code Six location, as well as any other relevant information, prior to making contact with Julio Rodriguez. The UOFRB noted Officers Rivas and Rodriguez were conducting a self-initiated pedestrian stop and the officers were not confronted immediately with circumstances or serious criminal activity which would have prevented them from broadcasting their Code Six location. The UOFRB was critical of the lack of communication between Officers Rivas and Rodriguez and their disregard for the importance with regards to officer safety, of providing their location and nature of their stop, considering they were outside their division of assignment.

Considering Officers Rivas and Rodriguez believed there was possibly a suspect armed with a handgun at the location, I would have preferred that the officers broadcast they were Code Six in the area prior to exiting their police vehicle. Field investigations may escalate unexpectedly and may require the response of additional resources, as it did in this incident. Therefore, it is essential that officers provide their location and the nature of their investigation, to maintain

officer safety, and in order to keep surrounding resources informed should such a situation arise where their response is required. Officers Rivas and Rodriguez' failure to communicate their Code Six location and the nature of their investigation, placed them in a tactically disadvantages position.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that Officers Rivas and Rodriguez' failure to broadcast their Code Six location when provided sufficient time to do so, was a substantial deviation, without justification, from approved Department tactical training. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

**Debriefing Point No. 3      Pedestrian Stop Tactics/Tactical Vehicle Deployment**  
(Substantial Deviation, without Justification – Officers Rivas and Rodriguez)

*Officers must approach every contact, whether a consensual encounter or a lawful detention, with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack.*

*Proper safety tactics demand that officers exit their patrol vehicles to conduct pedestrian contacts. Approaching and conducting the contact on foot allows officers:*

- *to devote complete concentration to observing the pedestrian (rather than dividing attention between driving and observation)*
  - *better access to weapons and a clear line of fire if necessary*
  - *better visibility of the pedestrian*
  - *better mobility (rather than being trapped in a vehicle)*
  - *the ability to detain and search an individual, if necessary*
- greater advantage if a foot pursuit should occur (California Commission on Peace Officer Standards and Training, Learning Domain 21).*

*Patrol officers must select a safe and tactical position for the placement of the patrol unit (California Commission on Peace Officers Standards and Training, Learning Domain No. 22).*

Officer Rivas and Rodriguez stopped their police vehicle in the center median, facing south on Griffin Avenue, adjacent to the where Julio Rodriguez was standing on the east sidewalk and speaking with the occupant of an unknown dark colored vehicle in the northbound lane of Griffin Avenue.

When arriving at an emergency radio call or conducting enforcement stops, the positioning of the police vehicle is critical for providing officers a tactically advantageous position. Officers must not be complacent or overconfident during enforcement stops given that complacency causes officers to ignore danger signs and compromises officer safety.

In this case, as Officers Rivas and Rodriguez approached the area of Avenue 43 and Griffin Avenue and proceeded to stop and park their vehicle in the center median lane, facing south on Griffin Avenue. Officer Rivas did not activate the police vehicles emergency lights or utilize the lighting equipment on the police vehicle. The UOFRB noted both Officer Rivas and Rodriguez articulated reasonable suspicion and determined they would be stopping Julio Rodriguez who was standing on the east sidewalk of Griffin Avenue parallel to where they parked their vehicle, for curfew and narcotics violations.

The UOFRB was critical of Officer Rivas and Rodriguez's somewhat complacent manner in exiting their police vehicle, and relaxed approach towards Julio Rodriguez who they believed may possibly be armed with a handgun. The UOFRB noted that Officers Rivas and Rodriguez both stopped in front of and then continued forward past the front of an unknown dark colored vehicle, whose occupant they observed conversing with Julio Rodriguez. The UOFRB opined the occupant of the vehicle and the vehicle itself was a potential threat which the officers neglected to consider. The UOFRB noted the officers conducted a pedestrian stop on Julio Rodriguez; however, they approached Julio Rodriguez as if they were conducting a consensual encounter. The UOFRB opined the officers were overly casual in their mindset and tactical approach, especially in their failure to tactically position or utilize their police vehicle for cover while conducting a pedestrian stop on a suspect they believed was possibly armed with a handgun. The UOFRB considered that Officers Rivas and Rodriguez did not properly position themselves to triangulate on Julio Rodriguez due to Officer Rodriguez' concern with the unknown dark colored vehicle that had backed up south and parked along the east curb of Griffin Avenue.

In this case, I would have preferred Officer Rivas and Rodriguez approach their pedestrian stop on a suspect possibly armed with a handgun with the mindset and mentality of maintaining officer safety. Conducting enforcement stops are inherently the most dangerous duties conducted by officers. Officers should handle all enforcement stop with caution and always keep in mind that no enforcement stop is "routine." The complacency that comes with everyday enforcement stops leads to officers compromising their safety and not approaching each stop with the proper mindset of utilizing approved Department training to increase officer safety. Therefore, officer safety is of paramount importance and it is essential that officers utilize enforcement stop tactics designed to enhance officer safety. Officers Rivas and Rodriguez' failure to utilize their police vehicle and proper pedestrian stop tactics, placed them in a tactically disadvantageous position.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that Officers Rivas and Rodriguez' failure to utilize appropriate pedestrian stop tactics, including the utilization of their police vehicle to achieve a tactically advantageous position, was a substantial deviation, without justification, from approved Department tactical training. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

**Debriefing Point No. 4      Approaching a Possibly Armed Suspect**  
(Substantial Deviation, without Justification – Officer Rivas)

*There is an equation that saves lives: Distance + Cover = Time. Time gives officers options. Time is an essential element of de-escalation as it allows officers the opportunity to communicate with the suspect, refine tactical plans, and, if necessary, call for additional resources. Entering the suspect's space prematurely may force the suspect to take action, ultimately escalating the situation. Whenever possible, officers should place an object between themselves and the suspect as cover or a barrier. A barrier could be a chain link fence, wrought iron gate, or any similar object that prevents the assailant from reaching the officer (Los Angeles Police Department Training Bulletin, Weapons Other Than Firearms, Volume XLVI, Issue 3, October 2017).*

*Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack (California Commission on Peace Officer Standards and Training, Learning Domain 21).*

Officer Rivas, upon exiting his police vehicle to conduct a pedestrian stop of Julio Rodriguez, closed distance and approached Julio Rodriguez whom Officer Rivas believed was possibly armed with a handgun.

When officers encounter a suspect that they believe is armed with a weapon, they are trained to place the suspect into a high-risk prone position to facilitate a safe approach to take the suspect into custody. This tactic provides the officers a tactical advantage and allows them to plan, communicate, redeploy, utilize cover, give commands, and approach the suspect from a position of advantage.

The UOFRB considered Officer Rivas immediately approached and initiated verbal contact with Julio Rodriguez, who he believed was possibly armed with a handgun without the benefit of any cover. The UOFRB was critical of Officer Rivas, who upon observing a bulge in Julio Rodriguez's right front pants pocket and believing Julio Rodriguez was the suspect he had observed in the social media video he had viewed prior to the encounter, did not communicate his observations to Officer Rodriguez, but instead attempted to initiate physical contact and grab a hold of Julio Rodriguez. After following Julio Rodriguez in foot pursuit to the driveway of 4415 Griffin Avenue, Officer Rivas was involved in an OIS. The UOFRB noted that immediately following the OIS, Officer Rivas without the benefit of cover, proceeded to approach Julio Rodriguez while commanding Julio Rodriguez to get on the ground. The UOFRB considered Officer Rivas observed Julio Rodriguez throw a handgun into the rear yard of the residence immediately following the OIS.

I would have preferred Officers Rivas utilize cover when conducting his pedestrian stop of Julio Rodriguez which would have enabled him to confront a possibly armed suspect while simultaneously minimizing his exposure. I would have preferred Officer Rivas maintain his distance, utilize available cover, and communicate to Officer Rodriguez of his observation of a

possible handgun in Julio Rodriguez' right front pants pocket. Immediately following the OIS, I would have preferred Officer Rivas once again maintain his distance, utilize available cover, communicate with his Officer Rodriguez and wait for the arrival of additional resources prior to approaching Julio Rodriguez, who may have been possibly armed with additional weapons. Officer Rivas' failure to utilize available cover and approach a possibly armed suspect in a safe and coordinated manner placed him and Officer Rodriguez in a poor tactical position and compromised their safety.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that Officer Rivas' failure to utilize available cover and approach towards an armed suspect, placed himself and Officer Rodriguez in a tactically disadvantageous position, and therefore was a substantial deviation, without justification, from approved Department tactical training. In order to enhance future performance, I will direct this topic be discussed during the Tactical Debrief.

### **Additional Tactical Debrief Topics**

#### **Conducting an Investigation Outside of Assigned Area Without Supervisory Approval:**

The investigation revealed Officer Rivas gained knowledge of a possible man with a gun in the area of Griffin Ave and Avenue 43 (Hollenbeck Area) through monitoring social media utilizing a fictitious profile. This location was outside of their assigned geographic area (Northeast Area). Officer Rivas advised Officer Rodriguez of the possibility of there being a man with a gun in that area and made the decision to proceed to the location. The officers did not notify a supervisor of their investigative follow-up to check the location. Absent any exigency in this incident, officers are reminded to notify a supervisor when leaving their division to conduct a follow-up investigation. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

**Additional Unit Request** – The investigation revealed Officer Rivas advised his partner, Officer Rodriguez, of a possible man with a gun in the area of Griffin Ave and Avenue 43 based on a social media video. Officer Rivas stated that based on the time of the uploaded video, his belief was that the likelihood of an individual posting a video of that nature remaining the area were slim; therefore, Officer Rivas did not request additional units to respond. Officers Rivas and Rodriguez are reminded to continuously utilize all available resources to increase their tactical advantage when approaching tactical situations where weapons may be present. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

**Running with Service Pistol Drawn** – The investigation revealed that following Julio Rodriguez fleeing on foot north on Griffin Ave, Officer Rivas and Rodriguez drew their service pistols and proceeded to pursue after Julio Rodriguez on foot until the OIS. The investigation revealed the foot pursuit covered approximately 528 feet and lasted approximately 25 seconds. Although this was a rapidly unfolding incident involving a suspect who appeared to be possibly armed, Officers Rivas and Rodriguez are reminded that there is a heightened concern for an unintentional discharge when running with a service pistol drawn. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.



**Holding Radio in One Hand and Service Pistol in Other** – Officer Rodriguez provided lethal cover for Officer Rivas while holding his service pistol in his right hand as he held his hand-held police radio in his left hand as Officer Rivas proceeded to handcuff Julio Rodriguez. Officer Rodriguez is reminded of the tactical disadvantage of having a service pistol in one hand and an additional piece of equipment in the other hand. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

**Foot Pursuit Broadcast** – Officer Rivas attempted to broadcast that he was in foot pursuit, his location, and a backup request while in foot pursuit of Julio Rodriguez but was ultimately unsuccessful. Officer Rodriguez, the trailing officer in the foot pursuit, did not assume a communications role or attempt to broadcast. Officer Rodriguez is reminded of the importance of the communications officer in a foot pursuit and providing the location of the officers and other relevant information to ensure that responding units are able to respond in a tactically safe and effective manner. When feasible, this is best accomplished prior to taking police action. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

**Holding Service Pistol in one Hand and TASER in Other** – The investigation revealed that Officer Rivas, while holding his service pistol in his right hand, drew his TASER with his left hand and activated the red dot sight of the TASER in an effort to de-escalate the encounter. Officer Rivas is reminded of the tactical disadvantage of having a service pistol in one hand and an additional piece of equipment in the other hand, due to the potential for an accidental or negligent discharge. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

**Use of Force Warning** – The investigation revealed while directing Julio Rodriguez to get on the ground multiple times, Officer Rivas drew his TASER and advised he was going to “tase” Julio Rodriguez. However, Officer Rivas did not provide a complete Use of Force Warning which would have included an advisement of the potential consequences of the use of force, including the possibility of injury due to the TASER being deployed. Officers are reminded of the importance of providing a complete Use of Force Warning, when feasible, prior to utilizing less-lethal control devices. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

**Contact and Cover Roles/Tactics** – As Officer Rivas continued to give Julio Rodriguez commands to get down on the ground, he approached and closed the distance to J. Rodriguez. Officer Rodriguez provided an updated location to CD as he stood on the sidewalk just south of the driveway to the residence. Officer Rodriguez began approaching Julio Rodriguez in a lethal cover role shortly after Officer Rivas, who had already closed distance and was in close proximity to Julio Rodriguez, holstered his service pistol and TASER and began initiating physical contact with Julio Rodriguez to handcuff him. Though officers are granted discretion and flexibility during fluid and dynamic tactical incidents, I would have preferred Officer Rivas had communicated to Officer Rodriguez his observations and intention to close distance and at that time switch his designated role from lethal cover officer to a handcuffing role. Officers Rivas and Rodriguez are reminded, when feasible, to communicate any changes of their tactical

plan and roles with their partner officers in order to optimize coordination and officer safety. Additionally, the officers are reminded to utilize the concept of contact and cover, during which one officer initiates contact while the other officer is the lethal cover officer. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

**Situational Awareness (Did not Know Location/Wrong Location Given)** – Communications Division requested a better location immediately following Officer Rodriguez' shots fired, officer needs help broadcast. Officer Rodriguez broadcast, "Avenue 43 and Griffin Avenue, just west of the liquor store." Officers Rivas and Rodriguez were located at 4415 Griffin Avenue, which is north of Avenue 43 on the west side of Griffin Avenue. Officer Rodriguez' broadcast indicating an incorrect location, which caused confusion for responding units and delayed their arrival. Although Officer Rodriguez provided the correct location during a subsequent broadcast, Officer Rodriguez is reminded of the importance of knowing his correct location at all times and accurately broadcasting all pertinent information when requesting help. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

### **COMMAND AND CONTROL**

*Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

*Command and Control is a process where designated officers use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct officers and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018).*

*Line Supervision – Defined. A supervisor who has the specific responsibility of issuing directions and orders to designated subordinates shall be considered as having the duty of line supervisor and shall be held accountable for achieving conformance with the directions and orders that he/she issues (Los Angeles Police Department Manual, Volume 3, Section 135).*

*Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Supervisor's Field Operations Guide, Volume 2, LAPD Emergency Operations Guide).*

The investigation revealed that Sergeant Borjas was the first supervisor to arrive at the scene. Upon his arrival at scene, Sergeant Borjas declared himself the IC and began assessing the scene and establishing containment of the incident. Sergeant Borjas determined that an OIS had occurred and requested an additional supervisor respond to the scene while directing on scene officers to contain and secure the crime scene. Sergeant Borjas established a CP at Avenue 43 and Griffin Avenue and after briefing Sergeant Flores on the situation, directed him to separate and monitor Officer Rivas. Additionally, Sergeant Borjas directed Sergeant Flores to administer a PSS to Officer Rivas. Sergeant Borjas maintained his role as the IC until he was relieved by Lieutenant Lozano at which time Sergeant Borjas took over the monitoring of Officer Rodriguez until he was relieved by Detective Chavarria. Sergeant Borjas continued to assist the IC and maintain his role in overseeing the containment of the crime scene and the general area. Additionally, Sergeant Borjas took possession of Officer Rodriguez' BWV until it was relinquished to FID investigators.

Sergeant Flores was the second supervisor to arrive at the OIS scene upon a second supervisor being requested by Sergeant Borjas. After being briefed and directed to take over monitoring and separating duties for Officer Rivas by Sergeant Borjas, Sergeant Flores walked Officer Rivas out of the crime scene to his police vehicle. Sergeant Flores admonished Officer Rivas not to discuss the incident, directed him to turn off his BWV, and took possession of Officer Rivas' BWV until it was relinquished to FID investigators. Sergeant Flores administered a PSS to Officer Rivas and transported him to the Northeast Community Police Station where he monitored Officer Rivas until he was relieved by Sergeant Gomez.

Lieutenant Lozano arrived at scene and declared himself the IC, relieving Sergeant Borjas. Lieutenant Lozano was briefed by Sergeant Borjas regarding the details of the incident and coordinated with Sergeant Borjas to verify the crime scene was contained and the appropriate resources had been requested. Lieutenant Lozano admonished Officer Rodriguez not to discuss the incident and directed Detective Chavarria to assume monitoring of Officer Rodriguez. Lieutenant Lozano ensured the proper notifications were conducted and continued to provide oversight and management of the resources on scene to maintain proper containment of the crime scene.

Detective Chavarria assumed monitoring of Officer Rodriguez from Lieutenant Lozano. Detective Chavarria directed Officer Rodriguez to turn off his BWV camera and relinquish it to Sergeant Borjas. Detective Chavarria transported Officer Rodriguez to Northeast Community Police Station, where they remained until Officer Rodriguez was interviewed by FID investigators.

The UOFRB noted that all supervisors responded to scene after the OIS had occurred and the tactical situation had concluded. The UOFRB noted they would have preferred Sergeant Borjas take a more active leadership role with regards to his urgency in identifying the involved officers, and overseeing the separation and monitoring of those involved officers once he had determined the tactical situation was no longer active. UOFRB determined, and I concur, that while there were identified areas for improvement Sergeant Borjas actions, with regard to protocols subsequent to a categorical use of force, did not significantly deviate from approved Department supervisory training.

The actions of Sergeants Borjas and Flores, and Detective Chavarria, were consistent with Department supervisory training and my expectations of a supervisor during a critical incident.

The actions of Lieutenant Lozano were consistent with Department supervisory training and my expectations of a watch commander during a critical incident.

### **Tactical Debrief**

In conducting an objective assessment of this case, the UOFRB determined, and I concur that Officers Rivas and Rodriguez's actions were a substantial deviation, without justification, from Department policy and training, thus requiring a finding of Administrative Disapproval.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved officers to discuss individual actions that took place during this incident.

Although it was determined that Sergeant Borjas would not receive formal findings, I believe that he would benefit from attending the Tactical Debrief to discuss this rapid and dynamic incident in its entirety to enhance future performance.

Therefore, I will direct that Sergeant Borjas, and Officers Rivas and Rodriguez to attend a Tactical Debrief and that the specific identified topics are discussed.

**Note:** Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

### **General Training Update (GTU)**

On January 16, 2020, Officers Rivas and Rodriguez attended a General Training Update (GTU). All mandatory topics were covered including the Force Option Simulator.

### **Drawing/Exhibiting**

Department policy relative to drawing and exhibiting a firearm is: *"An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified"* (Los Angeles Police Department Manual, Volume No. 1, Section 556.80)

### **Officer Rivas**

According to Officer Rivas, after he made verbal contact with Julio Rodriguez, he observed the bulge in Julio Rodriguez' pants pocket. Officer Rivas attempted to inquire what the bulge was at which time Julio Rodriguez immediately reached down, clenched the object, and took off running. Based on Officer Rivas' observation of Julio Rodriguez actions in response to Officer Rivas' inquiry, Officer Rivas believed that the bulge he observed was a handgun. Officer Rivas drew his service pistol based on his belief Julio Rodriguez was armed with a handgun and the tactical situation could lead to the use of deadly force.

Officer Rivas recalled,

*And when I asked him about -- when I originally or first saw the item or the bulge in his pocket, I asked him, you know, "What's that in your pocket?" And he just immediately reached down, clenched it, and then took off running.<sup>22</sup>*

*But as soon as he grabbed it and reached and, you know, held onto it and then ran, then I believed that it was a gun.<sup>23</sup>*

*No, it was just a bulge of -- some item sticking out of his pants -- or his waistband.<sup>24</sup>*

*I unholstered after he had ran -- after he had clenched down on his waistband and ran -- ran northbound on Griffin.<sup>25</sup>*

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<sup>22</sup> Officer Rivas, Page 19, lines 16-20.

<sup>23</sup> Officer Rivas, Page 19-20, lines 24-25 and 1.

<sup>24</sup> Officer Rivas, Page 20, lines 5-7.

<sup>25</sup> Officer Rivas, Page 26, lines 9-11.

## Officer Rodriguez

### First Occurrence

According to Officer Rodriguez, he was positioned just south of his partner on the east sidewalk of Griffin Avenue as Officer Rivas continued his verbal contact with Julio Rodriguez. Officer Rodriguez observed Julio Rodriguez suddenly pick the front waistband of his pants up and Officer Rodriguez believed Julio Rodriguez possibly could have been reaching for a handgun since in his experience, handguns are mainly carried by suspects in the front waistband area. Additionally, Officer Rodriguez observed Officer Rivas draw his service pistol, which led Officer Rodriguez to believe that Officer Rivas, who had a better angle, had also observed a weapon. Based on his observations, and his belief Julio Rodriguez may be reaching for a weapon or an item to inflict harm on him or his partner, Officer Rodriguez drew his service pistol.

Officer Rodriguez recalled,

*My partner had his gun unholstered from what I could see. My gun was unholstered along -- my finger along the side of the frame. I'm not muzzling my partner, following behind my partner.<sup>26</sup>*

*As soon as the foot pursuit kicks off... That's when I see my partner holster, so then I holster, because he probably has the angle or observation that -- or a better angle where I cannot see. So at that point it was a tactical situation where I could unholster where my finger was along the side of the frame, not muzzling my partner.<sup>27</sup>*

*And my partner kind of look -- gives me like a look back like let's go, and I see my partner unholster, which I do too. That was pretty much the communication right there.<sup>28</sup>*

*Just based on the area and, like I said, the incident I saw the week before with the gun being in the store and the victim down a couple months back. I began to unholster on a tactical situation and assisting my fellow partner just in case he needed assistance and try to -- and during the foot pursuit try to keep a reasonable -- like trying to keep close to him, so, if anything, I could render aid in this foot pursuit.<sup>29</sup>*

*If I could recollect a little better, I want to say the suspect was running and might have picked up his pants at one point, which possibly could have been reaching for a gun. Guns are mainly put in the front of the waistband.<sup>30</sup>*

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<sup>26</sup> Officer Rodriguez, Page 15, lines 16-20.

<sup>27</sup> Officer Rodriguez, Page 27, lines 7-8 and 10-16.

<sup>28</sup> Officer Rodriguez, Page 31, lines 9-12.

<sup>29</sup> Officer Rodriguez, Page 31-32, lines 18-25 and 1.

<sup>30</sup> Officer Rodriguez, Page 32, lines 10-14.

*And as he was running, I saw him pick the front waistband of his pants up. I can't remember which hand it was specifically. But at that point I saw my partner unholster, which made me want to unholster too, because I wasn't sure what was on the other side, because his back was facing me running towards that direction. So that created the action of me unholstering, not knowing what could -- what object could possibly be right there in the front of his pants... Led me to believe that he possibly may be reaching for a weapon or an item to inflict harm on me or my partner, which then I unholstered at a low ready position.<sup>31</sup>*

*Just based on the totality of the circumstances, high gang area, partner unholstering, immediately observed the suspect picking up his pants towards the front of his waistband kind of all clued me in on the gun that was found -- recovered the week before, the shooting that kind of happened, all kind of went through my mind. And that made me want to unholster just in case action needed to be taken, but at a low ready position.<sup>32</sup>*

### Second Occurrence

According to Officer Rodriguez, immediately following the OIS, he holstered his service pistol to prevent a negligent discharge. Officer Rodriguez utilized his hand held police radio to broadcast a shots fired, officer needs help request. Officer Rodriguez had knowledge that Officer Rivas observed a handgun and Julio Rodriguez was still unhandcuffed. Officer Rodriguez simultaneously drew his service pistol as he completed his broadcast since Julio Rodriguez was not in custody and Officer Rodriguez' belief that the situation may escalate to the point where deadly force may be justified.

Officer Rodriguez recalled,

*So there's an extra step to that too. So as I'm running, doing that, I didn't want to, you know, have a negligent discharge on my firearm, so then I go ahead and holster real quick, pull out my radio, put out the help call, and then I unholster very quickly, almost simultaneously.<sup>33</sup>*

*Because the suspect was still not in custody and I was trying to, you know, get a better angle. You know, I unholstered because the suspect was not in custody.<sup>34</sup>*

*I -- I holstered my weapon, simultaneously pulling out my radio to avoid a negligent discharge, put out the help call. As I'm putting out the help call, I'm already unholstering at a low-ready. I'm approaching my partner, closing distance overall, and then we create a triangular position as we both closed distance into the suspect.<sup>35</sup>*

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<sup>31</sup> Officer Rodriguez, Page 33, lines 6-15 and 22-25.

<sup>32</sup> Officer Rodriguez, Page 35, lines 13-21.

<sup>33</sup> Officer Rodriguez 2<sup>nd</sup> Interview, Page 6, lines 1-6.

<sup>34</sup> Officer Rodriguez 2<sup>nd</sup> Interview, Page 6, lines 11-14.

<sup>35</sup> Officer Rodriguez 2<sup>nd</sup> Interview, Page 7, lines 13-20.

*It's the threat is still pretty high because he's not yet in custody. My partner observed a gun. You know, and he – he was unhandcuffed. So until we put handcuffs on him and further investigate, then that's when my weapon would be reholstered.*<sup>36</sup>

The UOFRB conducted a diligent and individual assessment of each officer's articulation regarding their decision to draw and exhibit their service pistols. The UOFRB conducted a thorough evaluation of the reasonableness of Officers Rivas' Drawing/Exhibiting of his service pistol. The UOFRB noted that Julio Rodriguez was armed with a handgun and was fleeing in the dark toward an unknown location. The actions of Julio Rodriguez presented a potential deadly threat to the officers and the surrounding community.

The UOFRB considered Officer Rivas had knowledge that there was a substantial likelihood of a suspect being armed with a handgun near 4302 Griffin Avenue based on him viewing a social media video on his fictitious social media profile. The UOFRB noted that after approaching Julio Rodriguez and initiating verbal contact with Julio Rodriguez, Officer Rivas observed a bulge in Julio Rodriguez' right front pants pocket and began to suspect Julio Rodriguez was the same individual he observed in the social media video he viewed prior to the encounter. The UOFRB considered as Officer Rivas inquired as to what was in Julio Rodriguez' pocket, Julio Rodriguez reached down and grabbed the object with his right hand. Officer Rivas attempted to grab Julio Rodriguez and commanded him to place his hands behind his back. However, Julio Rodriguez while grabbing the object in his right front pants pocket, began to flee north on Griffin Avenue on foot.

The UOFRB noted, based on Julio Rodriguez' reaction and movements following Officer Rivas' inquiring about the bulge in Julio Rodriguez' pockets, Officer Rivas formed the opinion that Julio Rodriguez was armed with a handgun and Officer Rivas drew his service pistol due to the inherent danger presented by Julio Rodriguez' possession of a handgun as well as the danger to the surrounding community which included mostly residential structures.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer Rivas, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, I find Officer Rivas' Drawing/Exhibiting to be In-Policy, No Further Action.

The UOFRB also conducted a thorough evaluation of the reasonableness of Officer Rodriguez' Drawing/Exhibiting of his service pistol.

The UOFRB noted Officer Rodriguez, based on his discussion with Officer Rivas prior to approaching the area of Avenue 43 and Griffin Avenue, had knowledge that there could possibly be a suspect in the area that was armed with a handgun. Additionally, Officer Rodriguez based on his response the previous week to the same intersection for a suspect who had a handgun, had

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<sup>36</sup> Officer Rodriguez 2<sup>nd</sup> Interview, Page 9, lines 10-15.



knowledge that the area was frequented by gang members who often were in possession of handguns. The UOFRB considered as Officer Rivas was engaged verbally with Julio Rodriguez, Officer Rodriguez observed Julio Rodriguez suddenly pick the front waistband of his pants up and Officer Rodriguez believed Julio Rodriguez was possibly reaching for a handgun based on his prior experience of generally observing suspects concealing handguns in their front waistband area.

The UOFRB noted Officer Rodriguez observed Officer Rivas immediately draw his service pistol as Officer Rivas began to follow after Julio Rodriguez who had begun fleeing north on Griffin Avenue on foot. Officer Rivas drawing his service pistol further reinforced Officer Rodriguez' belief that Julio Rodriguez was reaching for a handgun based on Officer Rodriguez' perception that Officer Rivas was in a better position to observe Julio Rodriguez' and observed a threat to the officers. Officer Rodriguez drew his service pistol as he followed after Officer Rivas and Julio Rodriguez based on his belief that Julio Rodriguez was reaching for a handgun with the intention of inflicting harm upon both Officer Rivas and himself.

The UOFRB noted, Officer Rodriguez holstered his service pistol briefly immediately following the OIS to utilize his hand-held police radio to broadcast a shots fired officer needs help request. As Officer Rivas began to approach Julio Rodriguez, Officer Rodriguez immediately drew his service pistol a second time based on his belief Julio Rodriguez was possibly still armed with a handgun and was not handcuffed. The UOFRB noted that as Officer Rodriguez initially began following after Officer Rivas and Julio Rodriguez, Officer Rodriguez believed Julio Rodriguez was possibly armed with a handgun. Additionally, an OIS had just occurred, Julio Rodriguez was not handcuffed, and Officer Rodriguez believed Julio Rodriguez presented a potentially lethal threat based on Julio Rodriguez still possibly being in possession of a handgun.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Rodriguez, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, I find Officer Rodriguez' Drawing/Exhibiting to be In-Policy, No Further Action.

#### **Use of Force – General<sup>37</sup>**

*It is the policy of this Department that officers may use only that force which is "objectively reasonable" to:*

- *Defend themselves;*
- *Defend others;*
- *Effect an arrest or detention;*
- *Prevent escape; or,*

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<sup>37</sup> Provisional Special Order No. 1, 2020 – Policy on the Use of Force - Revised, was adopted by the Department on January 2, 2020, prior to this incident.

- *Overcome resistance*

*(Los Angeles Police Department Manual, Volume 1, Section 556.10)*

### **Factors Used to Determine Objective Reasonableness<sup>38</sup>**

*The Department examines reasonableness using Graham v. Connor and the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience, in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight. The totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.*

*In determining the appropriate level of force, officer shall evaluate each situation in light of facts and circumstances of each particular case. Those factors may include, but are not limited to:*

- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,*
- *The environmental factors and/or other exigent circumstances.*

*(Los Angeles Police Department Manual, Volume 1, Section 556.10)*

### **Use of Force – Deadly<sup>39</sup>**

*It is the policy of this Department that deadly force shall be used only when necessary in defense of human life. Specifically, deadly force shall be used only to:*

- *Defend against an imminent threat of death or serious bodily injury to the officer or to another person; or*

<sup>38</sup> LAPD Manual, Volume 1, Section 556.10 and Provisional Special Order No. 1 – 2020, dated January 2, 2020.

<sup>39</sup> LAPD Manual, Volume 1, Section 556.10 and Provisional Special Order No. 1 – 2020, dated January 2, 2020.

- *Apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.*

*An officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.*

*(Los Angeles Police Department Manual, Volume 1, Section 556.10)*

#### **Factors Used to Determine Whether Deadly Force Was Necessary<sup>40</sup>**

*The Department examines the necessity of deadly force by evaluating each situation in light of the particular circumstances of each case, and whether other available resources and techniques were reasonably safe and feasible to an objectively reasonable officer.*

*(Los Angeles Police Department Manual, Volume 1, Section 556.10)*

**Officer Rivas** – .40 caliber, 1 round fired from a distance of approximately 32 feet in a westerly direction.

According to Officer Rivas as he approached the driveway of 4415 Griffin Avenue, he observed Julio Rodriguez in the driveway. Officer Rivas observed Julio Rodriguez' body in a bladed position as Julio Rodriguez reached into his waistband, extended his hand up, while holding what Officer Rivas believed was a handgun towards his direction. Officer Rivas' observations led him to believe Julio Rodriguez was going fire the handgun at him and believed his life was in danger. Based on his observations of Julio Rodriguez removing a handgun from his waistband and extending his arm out towards Officer Rivas, Officer Rivas discharged one round from his service pistol while aiming for Julio Rodriguez' center mass in order to defend his life from the imminent lethal threat presented by Julio Rodriguez. Officer Rivas, while continually assessing, observed Julio Rodriguez continue raising his arm upward and throw the handgun over Julio Rodriguez' head into the rear yard of 4415 Griffin Avenue. Officer Rivas observing that Julio Rodriguez no longer had a handgun in his possession and determined Julio Rodriguez was no longer an imminent lethal threat.

Officer Rivas recalled,

*And as soon as I rounded that car and saw him in the driveway, I saw him reaching to his waistband. His body was kind of bladed with me. And as he reached into his waistband, he*

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<sup>40</sup> LAPD Manual, Volume 1, Section 556.10 and Provisional Special Order No. 1 – 2020, dated January 2, 2020.

*extended his hand up, holding what I saw was a gun towards my direction. I fired one round, and he tossed the gun over the fence.<sup>41</sup>*

*When I make that corner, I see him removing the handgun from his waistband, and he's coming up in an upward motion towards my direction... It was like a full extend -- extended out. Yeah, it was not bent.<sup>42</sup>*

*I felt like my life was in danger. I felt like he was going to throw -- or I mean I felt like he was going to shoot a round at me at that very moment.<sup>43</sup>*

*So he's bladed facing northbound, and I'm directly -- I'm facing him in a westbound direction. He pulls his hand out, extends it towards me. I see the gun and I take a, you know, a shooting platform. I extend both my hands out, and I aim for the center mass of his body and fire one round.<sup>44</sup>*

*It was like -- he extended his arm out and then he tossed it over his head.<sup>45</sup>*

*I thought he was going to shoot me... To me, it seemed like he fired -- or he threw it after I had fired the round.<sup>46</sup>*

*And then the actual OIS was dark, but I could make him out and make out the motion when he extended the gun towards my direction.<sup>47</sup>*

*Just I want to reiterate the fact that I felt like my life was in danger and that when I saw the handgun extended toward me, I was scared, yeah.<sup>48</sup>*

In this case, the UOFRB conducted a thorough review and analysis of the reasonableness of Officer Rivas' use of deadly force. The UOFRB took into consideration that Officer Rivas had prior knowledge through monitoring a fictitious social media profile, that there was possibly an individual armed with a handgun in the immediate area in front of 4302 Griffin Avenue. Additionally, the UOFRB noted Officer Rivas' familiarity and knowledge of the area including the various criminal gangs who frequent the area, the types of crimes committed in the area, and first-hand experience arresting an "Avenues" criminal street gang member for possession of a firearm just a week prior to this encounter at the intersection of Avenue 43 and Griffin Avenue.

Officer Rivas advised Officer Rodriguez there may possibly be a man with a handgun near the intersection of Avenue 43 and Griffin Avenue and proceeded to drive to the location. Officers

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<sup>41</sup> Officer Rivas, Page 8, lines 18-24.

<sup>42</sup> Officer Rivas, Page 23, lines 9-12 and 16-17.

<sup>43</sup> Officer Rivas, Page 21, lines 4-7.

<sup>44</sup> Officer Rivas, Page 47, lines 6-12.

<sup>45</sup> Officer Rivas, Page 49, lines 12-13.

<sup>46</sup> Officer Rivas, Page 52, lines 3-4 and 13-14.

<sup>47</sup> Officer Rivas, Page 55, lines 14-16.

<sup>48</sup> Officer Rivas, Page 59, lines 9-12.

Rivas and Rodriguez observed Julio Rodriguez standing in front of 4302 Griffin Avenue, speaking to the occupants of a dark colored sedan. Officers Rivas and Rodriguez conducted a pedestrian stop for curfew and narcotics violations; however, Officer Rivas did not immediately recognize Julio Rodriguez as the individual in the social media video who had been armed with a handgun. The UOFRB noted as Officer Rivas initiated verbal contact with Julio Rodriguez, both Officer Rivas and Julio Rodriguez appeared to be calm and complacent in their approach.

The UOFRB considered that Officer Rivas observed a bulge in Julio Rodriguez' front right pocket as Julio Rodriguez stepped towards him and extended his hand. The UOFRB noted that as Officer Rivas inquired to Julio Rodriguez of the contents of his pocket, Julio Rodriguez' demeanor began to shift and become more evasive as Julio Rodriguez stated, "Why, what do I have?" The UOFRB considered as Officer Rivas asked Julio Rodriguez if he could "pat him down," Julio Rodriguez began to significantly escalate the encounter by placing his right hand down on his right front pants pocket as Officer Rivas commanded, "Don't reach for it." Based on Julio Rodriguez' reaction and movements, as well as his experience and expertise, Officer Rivas believed Julio Rodriguez was armed with a handgun and was possibly the individual he had observed in the social media video he had viewed prior to the encounter.

The UOFRB noted, as Officer Rivas attempted to grab a hold of Julio Rodriguez and commanded Julio Rodriguez to put his hands behind his back, Julio Rodriguez further escalated the encounter by turning away from Officer Rivas and fleeing north on Griffin Avenue. Officer Rivas once again commanded Julio Rodriguez to put his hands behind his back as he drew his service pistol and engaged in foot pursuit of Julio Rodriguez north on Griffin Ave. The UOFRB noted that Julio Rodriguez refused to comply with Officer Rivas' commands and continued to flee. The UOFRB considered Officer Rivas' attempt to broadcast his foot pursuit, including his location, description of the suspect, and the crime the suspect was wanted for.

The UOFRB noted that Officer Rivas followed after Julio Rodriguez in foot pursuit, and as he made his turn to go west toward the driveway of 4415 Griffin Avenue towards a residence, Officer Rivas was standing in apron of the driveway without the benefit of cover. However, the UOFRB considered when Officer Rivas approached the driveway and commanded Julio Rodriguez to put his hands up, Officer Rivas observed Julio Rodriguez, with his body bladed, reach into his waistband, and raise his arm extended towards Officer Rivas with a handgun in his hand. Based on Officer Rivas' observations of an imminent lethal threat presented by the upward extended movement of Julio Rodriguez' arm while armed with a handgun in the direction of Officer Rivas, as well as his fear for his life, Officer Rivas discharged one round from his service pistol.

The UOFRB noted, Officer Rivas immediately assessed the tactical situation and Julio Rodriguez' actions immediately following the OIS and observed that Julio Rodriguez had thrown his handgun, was stationary with his hands raised, and was no longer a lethal threat. The UOFRB noted that Officer Rivas was continually assessing as he approached Julio Rodriguez and had discharged a single round when he observed an imminent lethal threat presented by Julio Rodriguez' movements. The UOFRB opined Officer Rivas' continual assessment of the tactical situation prevented unnecessary rounds to be fired once the imminent lethal threat no longer

presented itself. The UOFRB noted the investigation determined that approximately four tenths of a second elapsed from the moment Julio Rodriguez began his upward arm movement while armed with a handgun to Officer Rivas firing his service pistol.

In my overall assessment of this encounter, I determined that although there were tactical deficiencies throughout the encounter, it was the actions taken by Julio Rodriguez, including his refusal to comply with clear direct commands, which escalated the encounter and led to a foot pursuit. Julio Rodriguez was running through the community while armed with a handgun. Julio Rodriguez' actions posed a serious threat to the safety of the public, to which Officer Rivas and Rodriguez responded to by engaging in the foot pursuit. Julio Rodriguez had ample opportunity to comply and surrender to the officers prior to running into the gated driveway of the residence. As Officer Rivas approached the driveway of 4415 Griffin Avenue, Julio Rodriguez' actions of reaching into his waistband area, drawing a handgun, and raising his extended arm while armed in with the handgun in Officer Rivas' direction, further escalated the encounter and was a clear and discernable imminent lethal threat. It was necessary for Officer Rivas to discharge his service pistol in defense of his life based on the imminent lethal threat presented by Julio Rodriguez' actions.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer Rivas, would reasonably believe Julio Rodriguez' actions presented an imminent threat of death or serious bodily injury and that the use of deadly force would be objectively reasonable and necessary.

Therefore, I find Officer Rivas' Use of Lethal Force to be In-Policy, No Further Action.

### **Additional/Equipment**

**Required Equipment** – The investigation revealed Officers Silva and Vargas, who responded to the help call, had their side-handle batons in their police vehicle and were not equipped with collapsible batons on their person. Captain Valois advised this issue was addressed with both Officers Silva and Vargas through the generation of SAIs and Informal Meetings. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, I deem no further action is necessary.<sup>49</sup>

**Medical Treatment – Rendering Aid** – The investigation noted that following the OIS, Julio Rodriguez was not struck by gunfire. Officers Rivas and Rodriguez inquired if Julio Rodriguez was injured and made a thorough effort to determine if he had suffered any injuries. After Officer Roman took custody of Julio Rodriguez and placed Julio Rodriguez into the rear seat of his black and white police vehicle, Julio Rodriguez began to complain of stomach pain and feeling nauseous. Though Julio Rodriguez did not visibly appear in medical distress, Officer Roman immediately requested a RA to respond to assess Julio Rodriguez' medical condition and

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<sup>49</sup> A review of the FID case package revealed Officer Rivas was equipped with his Hobble Restraint Device on his person.

determine if he required further medical assistance. This is a laudable reflection of maturity by the officers to transition from a high stress tactical incident to that of conducting a medical assessment on Julio Rodriguez to determine if he needed medical assistance and later requesting medical personnel without delay when advised by Julio Rodriguez of possible medical distress.

**Profanity** – The investigation revealed that just prior to initiating his foot pursuit of Julio Rodriguez, Officer Rivas utilized profanity. Immediately following the OIS and as Julio Rodriguez continued to be non-compliant as Officer Rivas provided repeated commands to get on the ground, Officer Rivas utilized profanity. Captain R. Valois, Serial No. 30129, Commanding Officer, Northeast Area, advised that this issue was addressed through the issuance of a Notice to Correct Deficiencies (NTC) and the generation of a Supervisory Action Item (SAI). These corrective actions were based on previous corrective action that were taken for Officer Rivas' use of profanity in previous incidents. The Commanding Officer of Operations Central Bureau (OCB) and the Director of the Office of Operations (OO) concurred with this action. As such, I deem no further action is necessary.

**Notifications** – The investigation revealed, the IC, Lieutenant Lozano, did not notify the DOC of the OIS within the prescribed 30-minute time frame. Lieutenant Lozano arrived on scene at 23:30 hours; however, the official notification to the DOC from Lieutenant Lozano was not made until 0059 hours. Captain Valois advised this issue was addressed through the generation of a SAI and an Informal Meeting. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, I deem no further action is necessary.

**DICVS Activation** – The investigation revealed Officers Rivas and Rodriguez conducted a pedestrian stop of the suspect based on curfew and narcotics violations. However, Officers Rivas and Rodriguez did not activate the DICVS of their police vehicle prior to or during the encounter. An analysis by Northeast Area determined Officers Rivas had one DICVS non-compliance incident which occurred after this incident. Captain Valois advised this issue was addressed with both Officers Rivas and Rodriguez through the generation of SAIs and Informal Meetings. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, I deem no further action is necessary.

**Utilizing Personal Equipment to Access Information on Social Media Sites Without Prior Commanding Officer (CO) Approval** – The investigation revealed Officer Rivas conducted his own research of Department guides and notices regarding utilizing his personal cellular telephone to view information on social media websites while on duty. Based on his research, Officer Rivas did not believe that he needed to notify his CO or gain approval prior to utilizing his personal cellular telephone to monitor social media for criminal activity. However, the LAPD, Major Crimes Division, Social Media Users Guide, dated January 2015, under the Use of Personal Equipment heading, on Page No. 7, states: "Department personnel may use personal equipment to access information via social media sites when performing an authorized law enforcement mission with prior approval from the employees Commanding Officer." Captain Valois advised this issue was addressed with Officer Rivas through the generation of an SAI and Training. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, I deem no further action is necessary.

**Body Worn Video Activation** – The investigation revealed Officer Rodriguez had a late BWV activation during the incident. An analysis by Northeast Area determined Officer Rodriguez had one prior BWV non-compliance incident. Captain Valois addressed this issue through the generation of an SAI and the issuance of an Employee Comment Sheet. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, I deem no further action is necessary.

The investigation revealed that Officers Roman and Hosea did not have a full two-minute pre-activation buffer during the incident. An analysis by Northeast Area determined Officer Hosea had no prior BWV non-compliance incidents and Officer Roman had one prior administrative BWV non-compliance incident. Captain Valois addressed this issue with Officer Hosea through the generation of a SAI and divisional training and with Officer Roman through the generation of a SAI and informal meeting. The Commanding Officer of OCB and the Director of OO concurred with this action.

The Office of Operations conducted a random inspection of BWV assigned to Officers Rodriguez, Hosea, and Roman from August 16, 2020 through September 15, 2020, for compliance with timely BWV activations and full two-minute pre-activation buffers. The results of the inspections indicated all were in compliance.

### **Audio/Video Recordings**

**Digital In-Car Video System (DICVS)** – Force Investigation Division investigators identified that there were 11 DICVS videos related to this incident. Each video was reviewed in its entirety by an FID investigator. The DICVS videos captured the officers' responses to the scene, and their post OIS activities. The DICVS of Officers Rivas and Rodriguez' police vehicle was not activated and did not capture audio or videos of the OIS.

**Body Worn Video (BWV)** – Force Investigation Division investigators identified 31 BWV recordings related to this incident. Each video was reviewed in its entirety by FID investigators. Officer Rivas had his BWV camera on in buffer mode, as he initiated the pedestrian stop of Julio Rodriguez. Rivas' BWV captured the OIS. Officer Rivas turned off the BWV camera when he was directed to do so by Sergeant Flores.

Officer Rodriguez had his BWV camera on in buffer mode. He activated his BWV, one minute and forty-four seconds, after the contact with Julio Rodriguez began. Officer Rodriguez' BWV did not capture the OIS. Officer Rodriguez turned off his BWV camera when he was directed to do so by Detective Chavarria.

Officer Moyers' BWV captured the officers locating Julio Rodriguez' gun in the rear yard of 4415 Griffin Avenue.

Officers Roman and Vargas BWVs captured the officers' post OIS activities.



Sergeants Borjas and Flores, along with Officer Silva BWVs captured the sergeants' and officer's post-OIS command and control of the scene.

The remaining twenty-three BWV recordings captured officers responding Code Three to the scene and post OIS activities at the scene.

**Outside Videos** – Force Investigation Division investigators obtained and reviewed two security camera videos from the Neighborhood Market, located at 4301 Griffin Avenue as well as from American Motor Trends, located at 4236 Griffin Avenue. Each of those videos were reviewed in detail and stored at Technical Investigation Division, Electronics Section for future reference.

#### **Chief's Direction**

I will direct the Director of the Office of Constitutional Policing and Policy to complete a review of the LAPD Social Media User Guide. Based on developing and progressing technology and social media applications, the Department will conduct an evaluation of the best practices related to the use of social media, ensuring consistent and effective protocols are utilized. The Department will evaluate the most effective practices with regard to utilizing social media to aid in Department investigations in accordance with Federal and State laws, along with best practices while making use of technology to keep our communities and officers safe.

Respectfully,

  
MICHEL R. MOORE  
Chief of Police

Date: 10-21-20